

Attorney Docket No.: F7420(V)  
Serial No.: 10/635,711  
Filed: August 6, 2003  
Confirmation No.: 1913

**PETITION UNDER 37 C.F.R. §1.181 FOR  
WITHHOLDING OF ABANDONMENT**

Sir:

Applicants respectfully submit that the holding of abandonment in the above application was improper and should be withdrawn. The Office appears to have overlooked the fact that a Notice of Appeal was filed and that the application still pending.

A final rejection in the above-identified application was mailed October 4, 2005. A response (entitled "Amendment") thereto was transmitted by facsimile transmission on February 6, 2006.

The fax transmittal cover sheet additionally listed a Notice of Appeal, a petition for extension of time, and a transmittal letter. The response was timely transmitted on Monday, February 6 since February 4<sup>th</sup> was a Saturday. The fax transmittal page and the Office's auto reply facsimile transmission each indicated that eight (8) pages had been transmitted. This is consistent with transmission of a four (4) page response, a one (1) page Notice of Appeal, a one (1) page petition for extension of time, a one (1) page transmittal letter, and a one (1) page fax cover sheet. The response, the Notice of Appeal, the petition for extension and the transmittal letter all included certificates of facsimile transmission bearing the February 6<sup>th</sup> date.

Copies of the response, the Notice of Appeal, the petition for extension of time, the transmittal letter, and the Patent Office's auto reply sheet showing the fax cover sheet are enclosed. The fax cover sheet lists the Notice of Appeal among the papers.

It appears, therefore, that a Notice of Appeal was timely filed. In view of the timely filed Notice of Appeal, an Appeal Brief can still be filed with an extension. However, the Office mailed a Notice of Abandonment on May 22, 2006. Neither the Notice of Abandonment nor the Advisory

Action (mailed February 21, 2006) makes any reference to a Notice of Appeal having been filed so it is questioned whether the Office is aware that a Notice of Appeal was filed.

In view of the foregoing, it is respectfully requested that the Notice of Abandonment be withdrawn since the application is not abandoned in view of the filing of the Notice of Appeal and the fact that the application is still pending. The Commissioner is hereby authorized to charge any additional fees, which may be required to our deposit account No. 12-1155, including all required fees under: 37 C.F.R. §1.16; 37 C.F.R. §1.17; 37 C.F.R. §1.18; 37 C.F.R. §1.136.

Respectfully submitted,



---

Gerard J. McGowan, Jr.  
Registration No. 29,412  
Attorney for Applicant(s)

Gjm/pod  
(201) 894-2297